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DEPARTMENT FOR WHA/CEN and G/TIP BFleck

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SUBJECT: COSTA RICA: TIP WATCH LIST INTERIM ASSESSMENT

REF: A) STATE 111306 B) STATE 93829

SUMMARY

11. The 2008 TIP Tier Two Watchlist downgrade succeeded as a wake-up call for the GOCR's anti-TIP National Coalition (officially the National Coalition against Smuggling of Migrants and Trafficking in Persons), headed by Vice Minister of Public Security and Governance Ana Duran. The GOCR made significant progress since April toward prevention, prosecution, and protection of victims, mainly through the work of the Coalition. The GOCR's progress included: first vote on a proposed amendment to the Penal Code to make internal trafficking a crime; investigation of six possible trafficking cases; creation of a TIP route mapping for 2008 with Save the Children to enhance understanding of the problem and to compile TIP data; dedication of \$100,000 in budgetary resources to the National Coalition; launch of a major media awareness campaign with UNICEF; development of an inter-institutional protocol for identifying and coordinating immediate assistance to potential victims; and training for 547 police, immigration and health officials. The GOCR also hosted a regional conference of anti-TIP national coalitions, and the NGO Foundation PANIAMOR was key in implementing implementation of an information system designed to help Prosecutor's Offices collect data on child sexual exploitation and trafficking to help with building cases. Sections below are keyed to Ref A.

END SUMMARY.

1A. AMENDING LAWS TO CRIMINALIZE, PUNISH TIP

12. The National Coalition's Subcommittee on Prosecution, with the aid of an International Organization for Migration consultant, drafted substitute text to amend the Penal Code to criminalize internal (domestic) trafficking, in accordance with the Palermo Protocol, and to increase penalties for traffickers to a base of 6 to 10 years rising to 8 to 16 years under seven aggravating conditions. The aggravating conditions are: 1) victim is a minor, 2) violence, deception, intimidation or coercion is used, 3) the perpetrator is a spouse, relative or lives with the victim, 4) the perpetrator exploits a position of authority or trust, 5) the perpetrator takes advantage of his/her profession or occupation, 6) victim suffers grave harm, 7) the punishable act was committed by two or more people. The substitute statute would apply regardless of victim consent. (NOTE: G/TIP's Barbara Fleck has full text of proposed changes.)

13. This proposed substitute text for Article 172 of the Penal Code was approved by the National Assembly's Special Public Security Committee in October and was incorporated as an amendment to Article 19 of the "Bill to Strengthen Public Security" (No. 16.973, which addresses victims' and witness protection.) That bill is slated for plenary debate and could be taken up as early as this month or December by the full Assembly.

14. In addition to reforming the Penal Code, the Coalition advised

the Special Public Security Committee regarding TIP victims' protection under Bill 16.973, above. The Coalition provided input to ensure that the language in the bill included: 1) identification of victims of trafficking, 2) measures to assist the victims, 3) comprehensive protection measures, 4) inclusion of obstruction of justice or coercion in the definition, and 5) victims not being penalized for unlawful acts committed as a result of their being trafficked (using false documents or being penalized as illegal immigrants).

¶5. Lastly, the Coalition insisted that TIP be linked to organized crime in a parallel anti-crime bill which is also before the National Assembly. This would allow all enforcement and investigative measures available to the judiciary, police and prosecutors for organized crime to be applied to TIP cases, including wiretapping, procedural measures, and an increased statute of limitations. Post will continue to monitor developments as these bills move through the Legislature.

¶B. INCREASING LAW ENFORCEMENT EFFORTS

¶6. The above-mentioned legislative changes, once enacted, will increase law enforcement's ability to investigate, prosecute, convict and sentence traffickers. Also, in May, the federal judicial police (OIJ, Spanish acronym) formalized the creation of a Trafficking Unit. While the Unit does not have its own budget and still reports to the "Kidnapping" Subdivision of the "Miscellaneous Crimes" Division, the office now has its own dedicated space, four agents, and an office director focused on TIP. The Unit received specialized TIP training from UNICEF in 2008. The Unit's investigative authority is somewhat hampered by organizational structure and reporting lines, but the Unit is working around that obstacle in at least one case by including an agent from the Sex Crimes Unit in the investigation. Since May, the Unit has begun investigations in three potential TIP cases, and the Fuerza Pblica police sent three more potential cases to the Unit for investigative follow up in November.

¶C. IMPROVING GATHERING OF LAW ENFORCEMENT DATA

¶7. Trafficking activities have sometimes been classified and tried as lesser crimes, such as pimping or sexual exploitation, due largely to the lack of updated TIP statutes in the country. While the above-mentioned legislative changes will enhance the GOCR's ability to investigate and prosecute traffickers, this in turn will facilitate compilation of TIP law enforcement data. Currently, the National Institute for Children (PANI, Spanish acronym) gathers some data from the 911 emergency line.

¶8. In the meantime, the National Coalition, working with Save the Children and the non-profit PANIAMOR Foundation, undertook in 2008 the Fourth Geographical and Social Mapping of Trafficking of Children and Adolescents for Costa Rica. The purpose of defining trafficking routes is to better identify: TIP cases, where they occur, major internal and international TIP routes, and the factors that give rise to or facilitate TIP activities along those routes. Using special software that permits locating compiled information on a map, the Mapping project will help systemize data that is not found through formal channels but can shape and focus prevention programs.

¶9. In November, the Coalition trained 10 Ministry of Public Security officials to serve as the primary contacts for receiving and feeding new information into the Mapping database. The Coalition has planned two bilateral workshops with Panama and with Nicaragua to train border agents (police and immigration officials) about the system in order to maximize data collection.

¶D. DEDICATING MORE GOVERNMENT RESOURCES

¶10. For the first time, the GOCR dedicated the equivalent of \$100,000 of its 2008 budget, earmarked for the National Coalition,

to fight trafficking in persons. To date, the funds have been used for training, for developing an inter-institutional victims' assistance protocol, and for the launch of the media awareness campaign. In addition, the government agency PANI spent \$25,000 of its funds on the media campaign for ad placement.

¶11. The regional media campaign, entitled "No te Dejes Engaar," was developed by UNICEF (with INL 2006 funding). UNICEF, the National Coalition, and PANI, launched the campaign in Costa Rica in October, along with support from the AmNet cable TV network. The campaign includes TV ads, radio spots, training materials for police, parents and teachers, and informative age-appropriate educational materials geared toward adolescents.

¶E. DEVELOPING PROCEDURES TO IDENTIFY (AND ASSIST) VICTIMS

¶12. Recognizing the need for an inter-institutional, integrated response to protect and assist victims, the Coalition's Subcommittee on Protection developed a protocol for immediate victim assistance ("Modelo de Atencion Inmediata"), which seeks to identify whether a person is a TIP victim and to mobilize support for him/her immediately upon the first encounter with the victim (by Immigration police, for example), or upon receiving a "denuncia" (tip) about a potential victim. The protocol, to be implemented by Executive Order, defines steps that governmental institutions will take to detect, identify, protect and provide integrated assistance (medical treatment, physical security, psychological assistance, etc.) to a victim, with an aim of avoiding "revictimization." It takes into account human rights principles, individual attention, internal and international trafficking, and it promotes an integrated response. (NOTE: G/TIP's Barbara Fleck has a copy of the complete protocol.)

¶13. Interestingly, the Immediate Attention protocol calls for a designated person from each of five Executive Branch agencies and two Judicial Branch agencies to be assigned to be on call for the Immediate Attention Team and to be given necessary resources to fulfill their duties on a 24/7 basis -- including computer access or a laptop, pager or cell phone, overtime pay, security, and access to transportation if necessary. The protocol also invites the participation of the International Organization for Migration, the UN Human Rights Commission, and the International Labor Organization throughout the process. PANI, incidentally, developed its own protocol to provide assistance to victims that may be identified as a result of the "No te Dejes Engaar" media campaign and is merging its internal protocol with the Coalition's.

¶14. SHELTERS: The protocol notes access to adequate shelters as an important need. Though the government provided shelter and integrated services to at least two trafficking victims in 2008 at the National Institute for Women (INAMU) shelter, the Coalition recognizes that the security situation at both INAMU and PANI (children's) shelters is not well-suited to protecting victims of organized crime. Currently, the only shelter alternative for adult males is the Immigration deportation holding facility, which the Coalition knows is not ideal. The Coalition's Protection Subcommittee is studying ways to solve the shelter problem. In the meantime, the above shelter alternatives will have to continue to be utilized on a case-by-case basis.

¶15. It should be noted that the Bill to Strengthen Public Security will revamp crime victims' assistance in the country. The major responsibility for victims' assistance will then most likely fall to the Judicial Branch, rather than the Executive Branch, where the Coalition is housed. Therefore, the Immediate Attention protocol may be replaced by a new mechanism in the future.

¶16. Finally, the Immigration Directorate is in the final clearance process for a new Administrative Manual for its detention center. The manual emphasizes human rights of detainees and measures to guarantee protection of trafficking or smuggling victims that may be identified in the center.

¶F. INCREASE ANTI-TIP TRAINING

¶17. From April to November 2008, the Ministry of Public Security and/or the Directorate of Immigration, led by the National Coalition, trained or sensitized 547 police officers, immigration officials, immigration police officers, OIJ officers, and national health system workers. Eighty percent of those were police officers from around the country. The government distinguishes between sensitivity training of eight hours or less (provided to 325 officials) and "training" of 16 hours or more (provided to 222 officials).

¶18. Additionally, UNICEF joined with the above government institutions, using educational materials developed in conjunction with the "No te Dejes Engaar" campaign, to train 50 community police officers and police instructors following a "train the trainer" approach. The TIP theme was thus included in the National Police Academy curriculum in 2008, and TIP training will become a formal part of the Academy curriculum starting in 2009.

¶19. In August, the Ministry of Public Security held two joint training activities for Costa Rican and Nicaraguan police officers to improve bilateral institutional coordination.

OTHER SIGNIFICANT DEVELOPMENTS

¶20. REGULATIONS: Also in the final clearance process for printing in the Immigration Directorate is a new Regulation for Authorization of Permission to Exit the Country for Minors. The new regulation was developed to compensate for deficiencies in the current legislation. The regulation is designed to prevent crimes such as TIP and sexual exploitation of both Costa Rican and foreign children and adolescents.

¶21. REGIONAL CONFERENCE: In keeping with G/TIP's Recommended Long-Term Action Plan (Ref B) calling for more regional cooperative efforts, the GOCR hosted a regional conference of national anti-TIP Coalitions from November 10-12. Representatives attended from Mexico, Guatemala, Nicaragua, El Salvador, Honduras, Panama and the Dominican Republic. The International Organization for Migration and the International Labor Organization made presentations regarding international agencies and resources fighting TIP, and country delegations gave "best practices" presentations regarding their respective efforts.

¶22. INFORMATION SYSTEMS: In April 2008, the local NGO Foundation PANIAMOR, with the UN Interregional Crime and Justice Research Institute (UNICRI) and support from the Italian government, implemented the SISCESCO operational information system, a user-friendly tool for data collection that can help prosecutor's offices build stronger cases against those who sexually exploit and improve their investigative skills and strategies. The system can also help the Attorney General develop policies to prosecute these crimes. The system aims to collect and provide data on exploitation and trafficking to identify patterns, create profiles of offenders, help determine human resource and budgetary needs to work cases, determine average time from complaint to case resolution, and more.

COMMENT

¶23. The National Coalition -- the GOCR's official platform for addressing TIP issues -- definitely has an in-depth knowledge and understanding of the problem and challenges that TIP poses in Costa Rica, and its members are working fervently to make a difference. While prosecutions still lag, updates to the Penal Code, increased training, and a more focused TIP Unit in the OIJ should bring more cases to investigation, and eventually to trial. Post will continue to monitor developments that may occur in the next few weeks and will update G/TIP as quickly as possible to be incorporated in January's Interim Report.

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